

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE: GOOGLE DIGITAL ADVERTISING
ANTITRUST LITIGATION

21-md-3010 (PKC)

ORDER

THIS ORDER APPLIES TO:

ASSOCIATED NEWSPAPERS
LTD. v. GOOGLE LLC
21-cv-3446 (PKC)

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CASTEL, Senior District Judge:

Google seeks the inclusion of additional custodians in Daily Mail's search for responsive documents relating to Daily Mail's claim for damages and causation of damages. (ECF 711.) The parties had extensive negotiations over the identities of custodians in connection with a search of Daily Mail files. Daily Mail believed that it had come to a resolution with counsel but then Google brought on new counsel with new, more expansive requests. (ECF 718.)

The dispute has been whittled down from 13 proposed additional custodians to two: Martin Clarke, former editor of MailOnline, said to be focused principally on editorial decision making, and Paul Zwillenberg, former CEO of Daily Mail's parent company. Google cites an article in which Clarke touts the significance of digital advertising to Daily Mail's profit picture and emails indicating that he was an attendee at a meeting attended by other designated custodians. As to Zwillenberg, Google cites to a press report that he was hired because of his experience with digital advertising.

The Court considers this a close question. The likelihood of the existence of a significant quantity of non-duplicative materials responsive to the search terms in the files of these

two individuals is low but the burden should be modest because one would anticipate the number of hits requiring further review also to be low.

The Court will require the inclusion of Clarke and Zwillenberg as additional custodians whose files shall be searched in accordance with existing search protocols.

Google's Letter Motion is GRANTED to the extent indicated herein. The Clerk is respectfully directed to terminate the motion. (21-md-3010, ECF 711; 21-cv-3446, ECF 94.)

SO ORDERED.



P. Kevin Castel
United States District Judge

Dated: New York, New York
March 21, 2024